THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.14882 OF 1996

DATED: 24-10-2006

Between :

P. Sujatha and 6 others. .. Petitioners

And

The District Collector, Machilipatnam,
Krishna District and another. .. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.14882 OF 1996

ORDER :

The petitioners herein claim to be the owners of the lands in Sy.Nos.671/1A, 671/1B, 671/2E, 672/1A, 672/1B and 672/2B of Peddana village, Krishna District.

This writ petition is filed aggrieved by the action of the respondents in initiating the proceedings under the Land Acquisition Act, 1894 to acquire the land in possession of the petitioners for the purpose of providing house sites to the weaker sections.

The material on record shows that the 1st respondent – District Collector, Machilipatnam issued a Notification dated 17-5-1995 under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the Act') proposing to acquire an extent of Ac.18-10 cents in various survey numbers of Peddana village including the land claimed by the petitioners. Subsequently, the declaration under Section 6 of the Act was also made on 22-6-1996.

This writ petition has been filed on 25-7-1996 alleging that the names of the petitioners were not shown in the Notification published under Section 4 (1) of the Act and no notices were issued to them in the enquiry conducted under Section 5-A of the Act. It is also contended that since an extent of Ac.9-25 cents situated at a distance of 100 yards from the land now sought to be acquired was earlier utilised for the very same purpose of providing house sites to the weaker sections, there is no need for the impugned acquisition. It is also contended that since the declaration under Section 6 of the Act

was published beyond one year from the date of 4(1) Notification, the entire proceedings are vitiated and liable to be set aside.

In the counter-affidavit filed on behalf of the respondents, it is stated that the notification under Section 4 (1) of the Act was actually published in the Gazette on 24-5-1995 and declaration under Section 6 of the Act was published on 17-6-1996 within the time prescribed under the Act. It is also stated that though the notices were issued to all the persons whose names were shown in the revenue records, none of them attended the enquiry under Section 5-A of the Act. Since the names of the petitioners were not included in the revenue records, the contention of the petitioners that Section 6 declaration was made without notice to them is untenable.

I have heard learned Counsel for both the parties and perused the material on record.

As can be seen from the affidavit filed in support of the writ petition, the petitioners are claiming title and possession in respect of the land in question. They raised various objections opposing the acquisition of the land in their possession under the impugned notification. In the counter-affidavit, though the possession of the petitioners has not been specifically denied, it is contended that their names were not shown in the Revenue records and therefore no notices were served on them in the enquiry conducted under Section 5-A of the Act. Thus, it is not in dispute that the declaration under Section 6 of the Act was made without considering the objections raised by the petitioners. Whether the petitioners are holding title and possession in respect of the land in question and whether their objections are tenable or not are all the questions to be decided by the competent authority under the Act. Since admittedly no such opportunity was given to the petitioners and keeping in view that by virtue of the interim order granted by this Court all further proceedings pursuant to the impugned notification including dispossession of the petitioners has been stayed, I deem it appropriate to direct a fresh

enquiry after affording due opportunity to the petitioners to submit their objections.

Accordingly, the declaration dated 17-6-1996 made under Section 6 of the Act is hereby set aside and the Writ Petition is disposed of granting liberty to the petitioners to submit their objections before the 1st respondent within a period of eight weeks from the date of receipt of a copy of this order. If any such objections are received within the time fixed above, the same shall be considered by the respondents and appropriate steps shall be taken in accordance with law. No order as to costs.

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G. ROHINI, J.

Dt. 24-10-2006

klp